VWAP 101 for the VWAC

VWAP OVERVIEW

- VWLO Overview
- Difference between VWAP and SAPR
- DD270X forms
- POCs

GOALS

1. Baseline training for VWAP to VWACs
2. Improve Marine Corps Installation programs to provide best support to our victims and witnesses

DEFINITIONS – MCO P5800.16

- **VWLO** - The installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
- **VWAC** - The command's primary point of contact for victim and witness assistance matters.
- **Victim** – suffered a direct physical, mental or pecuniary harm from the commission of a crime (UCMJ or local)
- **Witness** – someone who has information about a crime
- **Law Enforcement** – NCIS/CID/PMO – does not

VWAP: PURPOSE & GOALS

- Ensure that victims and witnesses receive appropriate response and assistance
- Protect victims from further harm or hardship
- Ensure all victims are aware of their rights and are provided services they need
- Employ a multi-disciplinary approach to assisting victims and witnesses by combining the services of law enforcement, family advocacy, medical, legal corrections, and command personnel.

VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- Victim Witness Protection Act of 1982 – establishes VWAP
- Victims of Crime Act of 1984 – DOJ funded/Victims have fund
- Crime Control Act of 1990 – Victims right to information about offenders
- NDAA 1994 – mandates notification of inmate status changes
- 18 U.S.C. § 3771(a) "Justice for All Act of 2004" – most recent
- DoDD 1030.1 of April 13, 2004 "Victim and Witness Assistance"
- DoDI 1030.2 of June 4, 2004 "Victim and Witness Assistance Procedures"
- SECNAVINST 5800.11B of 5 Jan 2006 "Victim and Witness Assistance Program"
- MCO P5800.16A (LEGADMINMAN) Chapter 6 – currently in for revision

VICTIMS ELIGIBLE FOR VWAP SERVICES

- Includes, *but is not limited to*:
  - Military members and dependents.
  - Outside the Continental U.S. - DoD civilian employees, contractors, and family members.
  - If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court.
  - Authorized representative of Institutional Entity – but not entitled to individual services – such as, transitional compensation, etc.

- VWAP should try to include victims – not exclude them

VICTIMS' RIGHTS

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

VICTIMS' RIGHTS

- *Victim's rights do not provide authority for a legal "cause of action" against the Government.*

WITNESSES ELIGIBLE FOR SERVICES

- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
- When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

WITNESS' RIGHTS

- To be treated with fairness and respect for the witness's dignity and privacy.
- To be reasonably protected from the accused.
- To be notified of any scheduling changes which will affect their appearance at court-martial.
- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

WITNESS' RIGHTS

- *Witness' rights do not provide authority for a legal "cause of action" against the Government.*

DOD POLICY ON VWAP

- Role of victims/witnesses should be enhanced/protected
- Do all that is possible to assist victims/witnesses without infringing on the rights of the accused
- ***Particular attention to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.***

VWAP: HOW IT WORKS

Main Effort – Victim Witness Liaison Officers and Victim Witness Assistance Coordinators!

- Base and Installation commanders are responsible for implementing VWAP and shall be the central points of contact for VWAP issues aboard the installation.
- Base and Installation Commander manage through Victim Witness Liaison Officer (VWLO), VWAP Council and VWAP Coordinators for commands.
- Unit Commanders are responsible to appoint VWACs for their Squadron/Battalion sized unit.

INSTALLATION LEVEL:
WHO DOES WHAT

- **VWLO** - manage base programs for Commanders
- **NCIS/CID/PMO** - normally have first responsibility to inform crime victims and witnesses of rights under program; perform threat assessment; assist in contacting other services; safeguard property; provide updates (including apprehension); contact command VWACs
- **Prosecutors and legal personnel** - have continuing responsibility to ensure rights and services afforded under paragraph 6006.7, LEGADMINMAN
- **Legal Assistance Attorney** – Assists victims as necessary
- **Corrections personnel** - manage post-trial confinement forms, reports and notifications and coordinate with other offices

INSTALLATION LEVEL: WHO DOES WHAT

- Sexual Assault Prevention and Response Program/ SARCs, UVAs – victims of sexual assault
- Family Advocacy Program – Victim Advocates
- Transitional Compensation – HQMC via commanders
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – counseling, comfort
- Medical - services
- Civilian advocacy services, social services, medical

VWAP: COORDINATION IS KEY

- "All offices responsible for a part of the criminal justice process (including, but not limited to, law enforcement and criminal investigative agencies, convening authorities, legal, corrections) are responsible for ensuring a smooth transition of victim and witness assistance at each stage of the criminal justice process. ***This means that close coordination is required among the VWAP personnel assigned to each of these offices during the transition from one phase of the criminal justice process to the next."***
- Ensure right contact information is given on each DD Form to each Victim or Witness.
- Ensure continuing coverage for Victims/Witnesses of services and rights.

VWAP vs SAPR

- VWAP is an overarching assistance program for victims and witnesses of any crime, regardless of type and criminal proceeding. SAPR is a specialized victim assistance program for sexual assault cases.
- The main requirements of VWAP are for the necessary personnel to inform victims of their rights, fill out the appropriate forms, and track the status of a confined individual if requested. Under SAPR, the obligations are much more labor intensive and require constant coordination of all parties.

VWAP vs SAPR
Purpose

- VWAP

To uniformly notify victims/witnesses of their rights throughout the criminal justice process.

- SAPR

To eliminate sexual assaults within the Marine Corps and to assist those Marines affected by sexual assault; to provide standardized requirements, guidelines, protocols, and instructional materials on awareness and prevention of sexual assault; to provide an immediate, trained response capability for each report of sexual assault in all locations; and to ensure support of effective command programs and criminal justice procedures for persons to be held accountable.

VWAP vs SAPR Applicability

VWAP

- Applies to all victims of crimes committed in violation of the UCMJ, or in violation of the law of another jurisdiction

SAPR

- Applies to all victims of sexual assault

VWAP vs SAPR Implementation

VWAP

- All Marine Corps personnel, and Navy personnel attached to Marine units, engaged in detecting, investigation, or prosecuting crime, and all personnel assisting crime victims and witnesses are responsible for the implementation of the VWAP requirements

SAPR

- Report to command by 3rd Party
- Victims may report sexual assaults in one of two manners:
  - Unrestricted Reporting –
  - Restricted Reporting –
- VAs & UVAs are responsible for upholding the rights of the victim

VWAP vs SAPR
Personnel Involved

VWAP

- SJA to CMC
- CMC (JAM)
- CMC (PSL)
- Installation Commanders and Unit Commanders (battalion/squadron level and above)
- Law Enforcement Personnel
- Trial Counsel/Legal Representative
- Corrections Personnel
- Service Providers
  - Marine Family Services (MFS), advocates, chaplains, and medical personnel

VWAP vs SAPR
Personnel Involved

SAPR

- Deputy Commandant for Manpower and Reserve Affairs
- Commanders
- SARC
- Victim Advocate
- Uniformed Victim Advocate

VWAP FORMS

- An end to themselves?
- No –
  - Ensures that the support, services and rights are provided and ensured.
- ***DD Forms 2701-2704 do not replace genuine service and support.***

VWAP: *Pretrial & DD Form 2701*

- NCIS/CID/PMO provide V/Ws with DD Form 2701
- If no investigation – Prosecution team provides DD Form 2701
- 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance

- VWAC may have to give a DD2701 if the victim has not had one when you meet with him/her.
  - Keep track of the DD2701s you hand out

VWAP: *Military Trial Process & DD Form 2702*

- Upon first contact with victim or witness, prosecution provides DD Form 2702
- DD Form 2702 explains military trial process, gives tips and restates rights.
- 2702 includes rights regarding participating in trial process.
- 2702 provides VWAP responsible official contact information and prosecutor contact information

VWAP: *Post Trial & DD Form 2703*

- Prosecution provides victim or witness with DD Form 2703 at finish of trial.
- Includes “Right to receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused”
- Provides Contact info for Service Central Repository *(CMC PSL (Corrections)),* Confinement Facility, Service Clemency and Parole Board and any other necessary agency/office
- *“From now on, your POC will be the confinement facility or the Service Central Repository listed on the back of this page.”*

VWAP: *Post Trial & DD Form 2704*

- TC provides brig with DD Form 2704 at finish of trial.
- Requires election by each V/W whether to receive information on confinement status

- **Never include the 2700s in the ROT – these have personal info of victims and witnesses and should not be shared**

VWAP: *Post Trial Notifications & DD Form 2705*

- Corrections personnel ensure notifications made to V or Ws listed on DD Form 2704
- Clemency Eligibility
- Parole Eligibility
- Change in status – Parole/Clemency Approved, Released, Deceased, Escaped, Transferred, Work release

VWAP: *RESOURCES AND FORMS*

- Installation Victim Witness Liaison Officers (VWLO) – Your Contact INFO HERE
- http://www.defenselink.mil/vwac/dodprograms.html (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- http://www.ncvc.org/ncvc/Main.aspx (National Center for Victims of Crime)
- http://www.ojp.usdoj.gov/programs/victims.htm (DOJ Office for Victims of Crime)
- CMC – Major Dutch Schotemeyer (703) 614-4250; louis.schotemeyer@usmc.mil / Capt John Dunn john.s.dunn@usmc.mil
- CMC (PSL Corrections) (703) 614-1480

SUMMARY

- Victims/Witnesses of Crime deserve protection and assistance
  - Assists recovery
  - Improves Criminal Justice System at Large
- Interdisciplinary Program
- Coordination is Key
- Base Commanders own Local Base Programs
- All agencies have a role

Questions?

Back Up Slides

VWAC RESPONSIBILITIES:

Vary depending on the relationship

of a victim or witness to the VWAC's command

VWAC RESPONSIBILITIES:

Paragraph 6011, LEGADMINMAN

- Obtain and distribute VWAP materials;
- Provide VWAP training to the members of the command, at the discretion of the unit commander;
- Ensure that victims or witnesses have been advised of rights by providing DD Form 2701, if one has not already been provided;
- Assist the victim in obtaining necessary counseling;
- Maintain contact with all VWACs and other VWAP personnel involved in the victim's or witness' case; and,
- Assist the victim or witness as appropriate and necessary in the exercise of their rights.

VWAC RESPONSIBILITIES Cont'd:

<u>When the accused is a member of the VWAC's command</u>:

- Notify the victim of the commander's decisions concerning prosecution, the nature of charges, and the date charges are preferred;
- When necessary, solicit and discuss the victim's views regarding appropriate disposition of the charges against the accused, particularly during pretrial plea negotiations (*VWACs will contact the trial counsel prior soliciting this information*).

<u>Where VWAC's Command is the Convening Authority & after charges have been preferred, the VWAC shall</u>:

- Ensure victims and witnesses have been provided the necessary notifications under VWAP (*Coordinating with PMO, legal, and VWACs of the victims' or witnesses' command*).
- Confirm that the trial counsel assigned to the case has obtained the victim's views concerning plea negotiations and has forwarded that to the convening authority.